

(b) If the average emission levels calculated in §1045.410(h) exceed any of the emission standards that apply, notify us within fifteen days of completing testing on this family. Otherwise follow the reporting instructions in §1045.420.

(c) We will consider failure rates, average emission levels, and any defects—among other things—to decide on taking remedial action under this subpart (see 40 CFR 1068.505). We may consider the results from any voluntary additional testing you perform. We may also consider information related to testing from other engine families showing that you designed them to exceed the minimum requirements for controlling emissions. We may order a recall before or after you complete testing of an engine family if we determine a substantial number of engines do not conform to section 213 of the Clean Air Act or to this part. The scope of the recall may include other engine families in the same or different model years if the cause of the problem identified in paragraph (a) of this section applies more broadly than the tested engine family, as allowed by the Clean Air Act.

(d) If in-use testing reveals a design or manufacturing defect that prevents engines from meeting the requirements of this part, you must correct the defect as soon as possible for any future production for engines in every family affected by the defect. See 40 CFR 1068.501 for additional requirements related to defect reporting.

(e) You may voluntarily recall an engine family for emission failures, as described in 40 CFR 1068.535, unless we have ordered a recall for that family under 40 CFR 1068.505.

(f) You have the right to a hearing before we order you to recall your engines or implement an alternative remedy (see §1045.820).

#### **§ 1045.420 What in-use testing information must I report to EPA?**

(a) In a report to us within three months after you finish testing an engine family, do all the following:

(1) Identify the engine family, model, serial number, and date of manufacture.

(2) [Reserved]

(3) Describe the specific reasons for disqualifying any engines for not being properly maintained or used.

(4) For each engine selected for testing, include the following information:

(i) Estimate the hours each engine was used before testing.

(ii) Describe all maintenance, adjustments, modifications, and repairs to each test engine.

(5) State the date and time of each test attempt.

(6) Include the results of all emission testing, including incomplete or invalidated tests, if any.

(b) Send electronic reports of in-use testing to the Designated Compliance Officer using an approved information format. If you want to use a different format, send us a written request with justification for a waiver.

(c) We will send copies of your reports to anyone from the public who asks for them. See §1045.815 for information on how we treat information you consider confidential.

(d) We may ask for more information.

#### **§ 1045.425 What records must I keep?**

(a) Organize and maintain your records as described in this section. We may review your records at any time, so it is important to keep required information readily available.

(b) Keep paper records of your in-use testing for one full year after you complete all the testing required for an engine family in a model year. You may use any additional storage formats or media if you like.

(c) Keep a copy of the written reports described in §1045.420.

(d) Keep any additional records related to the procurement process.

### **Subpart F—Test Procedures**

#### **§ 1045.501 How do I run a valid emission test?**

(a) *Applicability.* This subpart is addressed to you as a manufacturer but it applies equally to anyone who does testing for you, and to us when we perform testing to determine if your engines meet emission standards.

(b) *General requirements.* Use the equipment and procedures for spark-ignition engines in 40 CFR part 1065 to determine whether engines meet the